

AMENDMENTS TO THE DRAWINGS:

The office action notes that the drawings are objected to under 37 CFR 1.83(a). The office action points out that drawings must show every feature of the invention in the claims. The office action specifically notes that the following elements are not shown:

Short-Bidding Bid Manager, claim 15; Short-Bidding Sale Analyzer, claim 24; Short-Bidding Sale Manager, claim 7; Short-Bidding Sale Reviewer, claims 18, 19, 23, 25; Short-Bidding Bid Manager, claim 15, etc.

The Applicants' patent application employed terms in the claims that were in error. The vocabulary employed in the Summary of the Invention, the Brief Description of the Figures, the Detailed Description, and the Figures was correct, but the vocabulary used in the claims was not correct. It is intended that the term "Short-Bidding Bid Manager" is actually the "Bid Manager", the term "Short-Bidding Sale Analyzer" is the "Bid Analyzer", the term "Short-Bidding Sale Manager" is "Bid Manager", and the term "Short-Bidding Sale Reviewer" is the "Bid Reviewer". As such, the Applicants respectfully request basic replacement of the misapplied terms in the claims according to the replacements specified above, rather than modifying the drawings due to this. This request is made since the correct terms are employed throughout the rest of the patent application including the figures and the replacement clearly in no way materially affects the essence of the invention by adding new material. Amendments to the claims that include these replacement terms are presented beginning on page 15.

Drawings in FIG. 1 and FIG. 6 have also been amended by replacing "Sales Executor" with "Sale Executor". The use of both "Sales Executor"

and "Sale Executor" was confusing in the original application, so the use of "Sales Executor" has everywhere been replaced with the singular form only. The attached sheets that follow at the end of this amendment comprise the new drawings for FIG. 1 and FIG. 6 that contain the text "Sale Executor" rather than the original text "Sales Executor".

Finally, Applicants respectfully request amendment of all drawings FIG. 1 through FIG. 7 for the purpose of adding leading lines (arrows) as required by standard patent application drawing procedures. The drawings have in no manner been materially modified except to add the leading lines and to replace the text "Sales Executor" with "Sale Executor". As such, "Replacement Sheets" are included for all drawings at the end of this amendment beginning on page 52, followed by "Annotated Marked-Up Drawings" sheets beginning on page 59, which clearly show all changes in red. The modifications comprise only the addition of leading lines and their associated numbers, and the simple replacement of "Sales Executor" with "Sale Executor" in only FIG. 1 and FIG. 6

REMARKS— General

This amendment is in response to the office action by examiner Mr. James H. Zurita, mailed 7/26/2007 for Application No. 10/757,432 originally filed on 1/15/2007, and having confirmation no. 4097.

In general, Applicants would like to emphasize that all requested amendments are of a clarification nature. Applicants believe that the patent office will be compelled to accept the amendments because the invention, in no way, is materially affected and because the new claim amendments are derived from the detailed description. Amendments to the specification (detailed description) and drawings are requested for the purpose of conforming to standard patent application formatting. However, in a few of the amended claims, scope has been narrowed in order to enhance support from the detailed description of Applicants' invention. Amendments are requested to be allowed in order to address objections as well as better clarify various points of the invention. Also, new claims 49 through 52 have modified which claim they are each dependent on, but again, this was meant to achieve a higher level of clarity for concepts and functionality already disclosed. Nevertheless, since modifications to the original claims are extensive in order to achieve the proper level of clarification, all claims 1-25 have been cancelled in this amendment while claims 26 and 27 were cancelled previously. Claims 28-52 have been added as new. Realize, however, that the new claims 28-52 are simply clarified rewrites of claims 1-25 such that the new claims are the same original claim that is numbered 27 less. Again, Applicants submit that the new claims have in no way been modified to extend the scope of the original invention disclosure submitted to the patent office.

The cancellation of paragraphs [0045] and [0046] in the detailed description is essentially a follow up of the previous office action of April 26. In Applicants' response to that previous office action, Applicants agreed to remove reference to a second invention presented in claims 26 and 27, and as such these claims were cancelled. Paragraphs [0045] and [0046] supported those claims and are no longer necessary in the current patent application.

Drawings in FIG. 1 and FIG. 6 have also been amended by replacing "Sales Executor" with "Sale Executor". The amended patent application should now comprise only references to Sale Executor and no mention of Sales Executor anywhere.

REMARKS— Claim Objections

It has been noted in the office action that Claims 1-25 are objected to because of several informalities.

Claim 28 (former Claim 1) has been introduced in response to the office action note that former **Claim 1** introduced an Auction Creator. It goes on to say that "It is not clear whether dependent claims that mention Auction Creator refer to the Auction Creator of former claim 1 or whether the dependent claims introduce an additional Action Creator(s). Applicants believe that this ambiguity has been caused by the wording of the dependent claims where the term "an Auction Creator" rather than "the Auction Creator" is employed. Claims 31-35 (formerly Claims 4 – 8) have been introduced in order to replace the use of "an Auction Creator" with "the Auction Creator" so that it is clear that the same single Auction Creator of the Short-Bidding Auction Manager is referred to.

Claim 32 (former Claim 5) has been introduced to replace the phrase "...listing an action forever..." in former **Claim 5** with the text, "provides for sellers to create an auction on a specific good to last until the Sale Executor executes a transaction to sell the last item available or until the seller decides to prematurely terminate the auction". This text has been introduced in response to the office action note that former Claim 5's use of the text "...listing an action forever..." will be interpreted as placing an item on auction until it is sold or taken off. This interpretation was intended by the Applicants. Nevertheless, Claim 32 (former Claim 5) has been introduced for the purpose of replacing the phrase "...listing an action forever..." with a precise description of when the auction ends. A full understanding of the detailed description supports this more precise description of the claim and it matches the stated office action interpretation.

Claim 42 (former Claim 15) has been introduced to replace the phrase "automatically" with ", without human intervention". The same paragraph in the office action response where the "forever" interpretation is noted also mentions that former Claim 15 refers to "...automatically...", a term which is indefinite in the context of a computer. The introduction of Claim 42 intends to make it clear that the seller gets the highest rating possible via Bid Manager processing.

Applicants would like to point out that the "Sale Executor" of amended independent Claim 28 (former Claim 1) is the "Sales Executor" of Claim 30 (former Claim 3). Claim 30 (formerly Claim 3) has been introduced to replace the phrase "Sales Executor" with "Sale Executor". This should be considered to properly introduce "Sale Executor" for amended Claim 37 (former Claim 10) since it has also replaced the phrase "Sales Executor"

with "Sale Executor". Claim 37 (former Claim 10) was also introduced for the purpose of clarifying that the invocation of the Sales Executer only occurs when the new modified asking price is lowered and at no other time. This removes the indefinite use of the text "...than a new modified asking price..." which was present in former Claim 10

Claim 40 (formerly Claim 13) has been introduced to replace the text "that may be uploaded" with the text "is uploaded". The introduction of Claim 40 is in response to the office action note that former Claim 13 refers to electronic goods ...that may [?] be uploaded and is indefinite.

Claim 32 (formerly Claim 5) has been introduced to replace the phrase "allows sellers to list their auction" with "allows sellers to create their auction". Specifically, the office action notes in former **Claim 5**, that the text ...an Auction Creator that allows sellers to list their auction on a specific good to last forever... is not clear on how a seller can list [an] auction on a specific good. Claim 32 clarifies this by explicitly stating that sellers create an auction for a specific good.

Specifically, the office action notes that former **Claims 1-25** refer to "asking price" or "asking price posted" and will be interpreted as correlating to a seller's posted price in the specifications. Applicants' newly amended claims take no specific action to modify claims with regard to this since the interpretation mentioned by in the office action is intended.

The newly introduced **Claims 28 – 52** (former Claims 1-25) employ the label short-bid. Specifically, the office action notes that former **Claims 1-25** contain the label short-bid and that it is not possible to identify the

metes and bounds of the claims. The office action continues by noting that applicants' paragraph 1 defines Short-bid:

When a bid is less than the price posted, this is known as a "Short-Bid".

The office action continues by noting that by the applicants' definition, short-bids are found in descending auctions. Applicants respectfully request that the patent office recognize that while a Short-Bid was defined in the Applicants' application as being less than the price posted with no further clarification in the defining sentence, that this definition was provided in a very specific auction context also described in paragraph 1. Specifically, paragraph 1 emphasizes the context of an auction where a seller has a good for sale and purchasers place bids for the good (first sentence of paragraph 1). Paragraph 1 did not specifically mention that the bids descend or ascend and that is because bids in this auction may be submitted in any order causing it to sometimes ascend and sometimes descend in the same auction. However, Applicants respectfully request that the patent office recognize that the spirit and theme of the auction invention described in the patent application clearly implies that higher bids are better than lower bids since the theme is that sellers are trying to sell goods and this necessarily implies that they seek the highest value in each sale. Thus, a short-bid is less than the seller's asking or posted price simply because it isn't high enough to be agreeable to the seller.

Based on the July 26, 2007 office action, the office will object newly introduced **Claim 28** (former Claim 1) noting that there does not appear to be correlation between what is being claimed in Claim 28 and repeated in the Abstract and paragraph 7. The office action goes on to

say that later paragraphs refer, without explanation, to various embodiments. These embodiments appear to be different species of the manager in claim 1. Applicants have amended the Abstract appropriately according to the request in the office action. Applicants, however, do not understand how claim 1 and paragraph 7 are not correlated since they are identical. Applicants respectfully request more explanation regarding the lack of correlation mentioned in the office action. Regarding later paragraphs referring to, without explanation, to various embodiments, this phrase style emphasizes that, in general, there may be many distinct or identical embodiments of the invention where some or all of the inventive features may be present. Thus, Applicants intend for the phrase "one embodiment of the invention" to be a general phrase to mean either a distinct embodiment or the same embodiment has the described capability. Applicants respectfully request a suggested modification to the employment of this phrase if necessary.

Claim 37 (former Claim 10) has been introduced to clarify that the invocation of the Sale Executor (replacing "Sales Executor") only occurs when the new modified asking price is lowered and at no other time. Specifically, the office action notes that former **Claim 10** consists of multiple condition statements that lead to invoking a component labeled Sales Executor. It goes on to say that it is not possible to determine the metes and bounds of the claim since it is not clear what action(s) takes place by invoking a component labeled Sales Executor. Newly introduced Claim 37 clarifies this case.

Claim 49 (formerly Claim 22) has been introduced to delete all text beginning with, including, and following "...for example...". This eliminates the indefiniteness caused by this clause. Additionally, "their specific bid"

has been replaced with "their specific bid price". Specifically, the office action notes that former **Claim 22** containing the term "...for example..." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. Newly introduced Claim 49 clarifies this case.

Claim 50 (former Claim 23) has been introduced in order to replace the text

review of both active and expired inactive bids separately and together

with

a review capability comprising:

a list of active bids with associated bid prices, times, and bidders only;

a list of inactive bids with associated expired or future bid prices, times, and bidders only;

a single list of active bids and inactive bids with associated expired or future bid prices, times, and bidders.

Applicants submit that this clarifies what was indefinite previously in former **Claim 23** in which the office action notes this claim says "...reviewing of both active and expired inactive [?] bids separately and together..." and that it is not possible to determine the metes and bounds of the claim. Applicants have newly introduced Claim 50 to clarify this case. Specifically, Applicants submit that the new Claim 50 is clearly derivable from the detailed description from paragraph 27, discussing time interval based bids resulting in inactive expired and inactive future bids, in combination with paragraph 38 describing bid review of inactive bids.

Claim 51 (former Claim 24) has been introduced in order to rectify the use of terms not mentioned in the detailed description disclosure. The newly introduced claim is in response to the office action's note that former

Claim 24 refers to "what if" analysis of aggregated revenue that is not otherwise mentioned in the disclosures. In entering the new Claim 51, Applicants have carefully replaced wording so that it is clear that the claim is deducible from the detailed description. Specifically, the text of former Claim 24 says, "that provides "what if" analysis of aggregate revenue for all active bids given a specific lower price, and can provide an analysis with respect to a future point in time". Newly introduced Claim 51 says "that provides a list of bids, bid quantity for each bid, and bid price for each bid, along with chart visualization, in order to facilitate an analysis of how much revenue will be made with the acceptance of specific bids."

New **Claims 28-52** (former Claims 1-25) have been introduced to address the office action note that in former **Claims 1-25**, various Short-Bidding Sale [entity] phrases are not identified and described in the specification and drawing. Applicants believe that this issue is corrected in the new claims that replace original claims with the following replacements: as per the Summary of the Invention, the Brief Description of the Figures, the Detailed Description, and the Figures; it is intended that the "Short-Bidding Bid Manager" is actually the "Bid Manager", the "Short-Bidding Sale Analyzer" is the "Bid Analyzer", the "Short-Bidding Sale Manager" is "Bid Manager", and the "Short-Bidding Sale Reviewer" is the "Bid Reviewer".

Claim 28 (former Claim 1) has been introduced with the text "when the Auction Creator creates an auction for the item" which replaces the text "when it is created" in former Claim 1. Specifically, the office action noted that in former **Claim 1**, it states "...properties of an auction in a database when it is created..." and that it is not clear what it refers to. Applicants have clarified this with new Claim 28.

Applicants have introduced Claim 28 (former Claim 1) with the text:

a User Account Manager and associated User Manager user interface that provides the means for buyer and sellers to join an auction website and establish pertinent personal information, wherein joining causes a user account to be created and stored in a User Accounts table (in Auction Database) with a unique user ID, and the user IDs are employed by users when buying and selling;

in order to replace former Claim 1's text:

a User Account Manager and associated User Manager user interface with a user interface for purchasing bidders and sellers to register with an auction website and establish pertinent personal account information, wherein registering causes a user account to be created and stored in a User Accounts table (in Auction Database) with a unique user ID, and the user IDs are employed by users when buying and selling;

Applicants submit that this modification is directly supported in the detailed description's paragraph 18 of the patent application. This is intended to address the office action note that former **Claims 1 and 13** contain the term **means for** and would appear to invoke sixth paragraph of 35 USC 112, to recite claim element as a means for performing a specified function. The office action continues by saying that the disclosures provide no structural support for the claims and so it is impossible to determine the equivalents of the element as required by 35 USC 112, sixth paragraph. The office action concludes on this topic by saying that for the purposes of the examination, the claims will be interpreted to not invoke the sixth paragraph. Again, the rewrite of Claim 1 and the support in paragraph 18 addresses this.

Applicants have introduced Claim 40 (former Claim 13) with the text:

further comprises an Electronic Good Manager where electronic goods may be stored in an Electronic Good Database, downloaded, and managed, wherein the Auction Creator further provides the means for sellers to list an auction for an electronic good that may be uploaded to this repository.

in order to replace former Claim 13's text:

further comprises an Electronic Goods Manager where electronic goods may be stored in an Electronic Goods Database, downloaded, and managed, and the Auction Creator is used to create an auction for an electronic good wherein the electronic good is uploaded to this Electronic Goods Database.

which is intended to address former Claim 13's use of **means for**.

Applicants submit that this modification is directly supported in the detailed description's paragraph 35 of the patent application. When paragraph 35 mentions that the present invention comprises the ability to sell electronic goods, this directly implies creating an auction using the Auction Creator in the context of the patent application.

Claims 28 and 40 (former Claim 1 and 13) refer to a database. Specifically, the office action notes that former **Claims 1 and 13** refer to a database and that a database is any aggregation of data. The office action goes on further to say that the term database will be given its broadest reasonable interpretation to include logical and physical aggregations of data. Applicants' agree with this office action statement but note that Applicants employment of a database specifically intends to mean that data is organized into distinct tables that may be relationally queried as in a traditional relational database management system.

Claims 29, 41, 46, 47, and 52 (former Claims 2, 14, 19, 20, and 25) have been introduced in order to use the phrase "purchasing bidder" instead of "buyers" and "purchasers". This use of "purchasing bidder" intends to

enhance clarity. The July 26, 2007 office action notes that the use of terms "buyers" and "purchasers" in former **Claims 2, 14, 19, 20, and 25** was not clear and that it is not clear whether applicants claim patentable distinction by using different words, and that the words will be interpreted as synonyms. Applicants note that these terms are intended to be synonyms but that claims have been amended to enhance clarity. All of these synonyms have been replaced in the amended claims with exclusively the use of "purchasing bidder".

Claim 34 has been introduced to replace former **Claim 7** which refers to list[-ing an] auction with no specific price listed. A price (\$\$) is either listed or not listed. The office action notes that Prior Art is interpreted to read on such a claim where prior art discloses RFQs, or where Prior Art discloses a seller's maximum or minimum price. Applicants respectfully point out that since Claim 34 (former Claim 7) is dependent on Claim 28 (former Claim 1), RFQs cannot be prior art since there is no bidding with an RFQ and no acceptance of a bid price. Applicants also respectfully point out that prior art that discloses a seller's maximum or minimum price is only prior art if the seller is required to accept a bid price in order to consummate a sale.

Claim 36 (former Claim 9) has been introduced by replacing the text

further comprises an Auction Editor that allows sellers to modify any or all details of an existing auction, or terminate an auction.

with

further comprises an Auction Editor that allows sellers to modify asking price or terminate an auction

Applicants submit that this modification is very precise and directly supported in the detailed description's paragraph 22 and 23. This directly addresses the office action note that **claim 9 and 11** refer to "...any or all.." which renders the claims indefinite.

Claim 38 (former Claim 11) has been introduced by replacing the text

further comprises an Auction Item Manager that audits any or all salient events on an auction, such as when it was created, when it ended, bid statistics, sales statistics, when it was modified and what was modified.

with

The Auction Item Manager of claim 28 further audits events for an auction including when it was created, when it ended, bid statistics, sales statistics, when it was modified and what was modified.

Applicants submit that this modification is very precise and directly supported in the detailed description's paragraph 24. This also directly addresses the office action note that **claim 9 and 11** refer to "...any or all.." which renders the claims indefinite.

Claim 37 (former Claim 10) has been introduced by replacing the text

further comprises an Auction Editor allowing modification of any existing auction properties, wherein it will invoke the Sales Executor for all short-bids that become equal or greater than a new modified asking price if the asking price was lowered during auction modification.

With

further comprises an ability to modify any existing auction properties, so that when, and only when, the asking price is lowered, the Auction Editor will invoke the Sales Executor for all short-bids that become equal or greater than the new lowered modified asking price, which results in the Sales Executor executing such short-bids.

Applicants submit that this modification clarifies what action takes place when the Sales executor is invoked when it says, "which results in the Sales Executor executing such short-bids". This addresses the office action note

that **Claim 10** consists of multiple conditions that lead to invoking a component labeled Sales Executor and it is not clear what action takes place when the Sales Executor is invoked.

Claim 38 (former Claim 11) has been introduced with a precise list of the events and data audited. This precision intends to overcome the office action note that **Claims 11, 14, and 16** contain "...or..." which renders the claims indefinite. The office action also noted that Prior Art will be interpreted to meet the limitation where prior art meets either condition. The newly amended claim does not include this phrase.

Claims 41 and 43 (former Claims 14 and 16) have been amended but not relative to the office action note regarding the containment of "...or...". Applicants are unable to locate an "...or..." clause in former Claims 14 and 16 and request clarification from the patent office on the issue cited.

Claim 40 (former Claim 13) has been introduced to replace the phrase "Electronic Good" with the phrase "Electronic Goods" and Claim 42 (former Claim 15) has been introduced to replace the phrase "Electronic Goods Repository" with "Electronic Goods Database". These claims were amended to enhance clarity of the use of phrases. This directly addresses the office action note that former **Claim 13** refers to Electronic Good [singular] Database and Electronic Good [singular] Manager. The office action further notes that former Claim 15 refers to Electronic Goods [plural] Repository. The office action says that it is not clear whether applicant claims patentable distinction by using different words. As per the detailed description, only the terms Electronic Goods [plural] Database and Electronic Goods [plural] Manager are introduced,

and so that is why these phrases are the only ones used in the newly amended claims.

Claims 41 – 43 (former Claims 14-16) have been introduced to employ the term "The Bid Manager" replacing the former claims' use of "a Bid Manager" in order to enhance clarity. This addresses the office action note that **Claims 14-16** refer to Bid Manager and that it is not clear whether these claims refer to the Bid Manager of former Claim 1 or whether there are multiple Bid Managers.

Claim 49 (former Claim 22) has been introduced to remove the clause "...raising the bid a little or a lot during..." wherein the office action notes that this renders the claim indefinite. The removal of this clause clarifies the claim.

Claim 50 (former Claim 23) has been introduced in order to replace the text:

reviewing of both active and expired inactive bids separately and together
with
 a review capability comprising:
 a list of active bids with associated prices, times, and bidders only;
 a list of expired inactive bids with associated prices, times, and bidders only;
 a single list of active bids and expired inactive bids with associated prices, times, and bidders.

Applicants submit that this clarifies the previous indefiniteness identified in the office action regarding former **Claim 23**.

REMARKS— Claim Rejections – 35 USC § 102

Amended Claims 28 – 52 (former Claims 1-25) are not anticipated by Gupta. It has been noted in the office action that former "Claims 1-25, as interpreted, are rejected under 35 U.S.C. 102(e) as being anticipated by Gupta (US 7,130,815)".

Applicants amended Claim 28 (former Claim 1) is distinct from Gupta's invention because it implements a different auction protocol, but it does comprise much similar infrastructure. Gupta discloses an apparatus comprising: means for buyers and sellers to join auction website; sellers to post information about a good as well as set the quantity and the asking price for the good; storing the properties of an auction in a database when the auction is created; allowing buyers to set a price for the bid on an item which may be at the asking price or be a short-bid which is less than the asking price and which becomes a contract to buy once submitted; providing the list of short-bid contracts for the seller to review; executing a sale if a bid is at the asking price posted for a good, while it collects and tracks all short-bids as bid contracts no matter how low the price bid is; executing a sale between buyer and seller when a bid is placed at the asking price or when the seller decides to accept a short-bid, wherein executing a sale comprises notification to the buyer and seller that the buyer's submittal of a contract to buy must be executed; sending emails to sellers and buyers constituting the notifications generated; storing the user accounts current auction items, current bids, auction history, and bid history.

The Applicants respectfully request that the patent office be aware that the references of column numbers and line numbers appear to be close to the text meant to be referred to but doesn't appear to be exact. This assessment is based on the images downloaded from the www.uspto.gov

website for the Gupta patent. Thus, Applicants' references are likely off whichever patent text that the Patent Office is using. Applicants' references are based on the Gupta patent images on the website.

The Applicants respectfully request that the patent office recognize that the Gupta patent maintains two important distinctions from the invention submitted by the Applicants. The first distinction has to do with which role of person initiates an auction and the second is the direction that bids go as the auction progresses. These distinctions are observed throughout the Gupta patent and also seen in several of the patent office references within the Gupta patent.

The Gupta patent notes that an auction initiates by the initiation of a consumer (see Col. 2, lines 60-62), not a seller (where Gupta uses the term "distributor" in this case). This is why the Gupta auction disclosure is called a "reverse auction". A common standard auction is initiated by a seller and the seller typically seeks the highest bid in an ascending series of bids in the auction. A reverse auction is initiated by a consumer who seeks the lowest bid that a seller is willing to sell a product to them for. The Gupta patent discloses the consumer initiating auction model with a descending bid structure (Col 2, lines 64-65 and Col 7., lines 15-17). See also the Gupta Patent's claim 1 where Gupta recites, "accepting a request for a specific product from a particular consumer via the Web page over a network; accepting a reserve price for said specific product from said particular consumer". The consumer then publishes a reverse auction with a reserve price when Gupta recites, "distributing said request for said specific product and said reserve price to a set of sellers over the network". The text of claim 1 further describes details of a consumer initiated auction to sellers and concludes in claim 1 with, " if there are multiple offers having

an offer price less than to the reserve price presenting to the consumer the multiple offers sorted in a predetermined order to allow the consumer to select one offer from the multiple offers; consummating a transaction with an offer selected by the consumer if the consumer selects from the multiple offers; and consummating a transaction with an offer having a lowest price from the multiple offers if the consumer does not select from the multiple offers."

The Applicants respectfully request that the Patent Office recognize that the Gupta patent auction model employs a buyer initiated and controlled "lowest bid is best offer" paradigm wherein the Applicants' invention employs a seller initiated and controlled "highest bid is best offer" paradigm. The Applicants also request that the Patent Office recognize that the reserve price of the Gupta patent auction model is a statement of price by the buyer of what maximum price they will buy a product for. Oppositely, the Applicants' invention published asking price is a statement of price by the seller of what minimum price they will sell a product for.

Gupta discloses sending email to sellers and bidders when any salient events occur. While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention Claim 29 is actually distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Gupta discloses managing collection of funds from a buyer's account which is then deposited into a seller's account. While this feature is the

same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention Claim 30 (former Claim 3) is actually distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Auction Creator functions, Claims 31-34 (former claims 4-7)

Amended Claim 31 is distinct from Gupta because the creation of an auction on a specific good to last for a specific time interval (see for example, at least Col. 2, line 54-Col. 3, line 3) is performed by the consumer, not the seller as in Applicants' Claim 31.

Amended Claim 32 is distinct from Gupta because, again, the creation of an auction is performed by the consumer, not the seller as in Applicants' Claim 32.

Gupta discloses auctions of electronic products. While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention Claim 33 (former Claim 6) is actually distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is distinct from the Gupta patent as per the Claim 28 discussion above.

Amended Claim 34 is distinct from Gupta because, again, the creation of an auction is performed by the consumer, not the seller as in Applicants' Claim 34.

Auction of Electronic Goods, Claim 35 and 40 (former claims 8 and 13)

Applicants' Claim 35 discloses the auction for an electronic good which becomes electronically downloaded. Gupta does not disclose electronically downloadable goods. Gupta discloses references to auctions of paid content as in advertisements, as in Col. 11, lines 1-29. However, Applicants respectfully submit that the "paid" content such as advertising referred to in the reference falls more in the category of an electronic service. The text of Col. 11, lines 1-29 does not present an electronic goods database where the actual electronic good is stored for subsequent download. Instead the reference discusses a "Product DB" that comprises a catalog of information about real (non electronic) products. Applicants also respectfully submit that Applicants' Claim 35 (former Claim 8) is also distinct due its dependency on Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the claim 28 discussion above.

Gupta does not disclose storing, downloading and managing electronic goods in databases and sellers listing an auction for an electronic good that may be uploaded to this repository (see at least Col. 10, line 60-Col. 11, line 29 concerning different types of databases). Again, Applicants respectfully submit that while several different distinct databases are presented in the reference, in particular the Product DB, none of these databases including the Product DB store the actual electronic good. The Product DB is merely a catalog of information about real products where it is implied that such products referred to will be physically shipped via post office mail or other delivery service via conventional transportation. Applicants also respectfully submit that Applicants' Claim 40 (former Claim 13), is also distinct due its dependency on Claim 28 (new Claim 1)

which is believed to be distinct from the Gupta patent as per the claim 28 discussion above.

Auction Editor, claims 9-10

Gupta does not disclose auction modification (see for example, at least Col 3, lines 4-29). Instead it emphasizes seller bid price acceptance at any time which is not modification of the auction details. Applicants' Claim 36 (former Claim 9) is supported by Applicants' paragraph 22 in the detailed description. Thus, Applicants' Claim 36 (former Claim 9) intends to cover the case where the seller's asking price is modified up or down, and yet, no offer is accepted due to this modification. Applicants respectfully submit also that a comprehensive understanding of the detailed description allows for also modifying the current quantity of items being sold at auction as well as the end time of the auction. The Gupta reference does not disclose these features. The Gupta reference does disclose how an auction automatically terminates based on some rules. However, the intended theme of termination in the Applicants' invention is that the auction is terminated directly by the seller prematurely with no sale transaction or transactions consummating. Applicants believe this theme of premature termination with no sale or transaction is not present in the Gupta reference. This theme is supported in Applicants' detailed description paragraph [0023]. Applicants also respectfully submit that Applicants' Claim 36 (former Claim 9) is also distinct due its dependency on Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the claim 28 discussion above.

As mentioned, Gupta does not disclose modifying existing auction properties and comparing a modified posted price with a short-bid price.

(See for example, at least Col. 3, lines 20-32). Again, Applicants respectfully submit that the Gupta reference does not actually allow for auction modification but rather offer acceptance. While Gupta does disclose comparing a reserve price, this price is a reserved minimum purchase price posted by a purchaser and is compared with seller bids. Applicants' invention employs a posted seller price which is compared with potential buyer bids. Applicants' Claim 37 (former Claim 10) is also distinct due its dependency on Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the claim 28 discussion above.

Auction Item Manager

Gupta does disclose auditing any or all salient events on an auction, such as when it was created, when it ended, bid statistics, sales statistics, when it was modified and what was modified (See, for examples, at least Col. 11, lines 10-25 and other references to history and audits). While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention Claim 38 (former Claim 11) is actually distinct due to its dependency on the Applicants' invention independent claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the claim 28 discussion above.

Bid Manager and Short-Bidding Bid Manager, claims 14-16

Gupta does disclose keeping audit trails on every bidder and seller transaction tracked by bidder and seller individually, wherein bidders and sellers may also log their rating of the other party's execution of the

transaction (as, in Col. 10, line 60-Col 11, line 20). While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention Claim 41 (former Claim 14) is actually distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the claim 28 discussion above.

Gupta does not disclose rating a seller at the highest rating when the transaction is for an electronic good that was stored. See at least references to detailed analysis of buyers and sellers, as in Col. 11, lines 1-24. Applicants respectfully submit that the reference neither presents the use of electronically stored goods nor subsystem processing of rating at the highest rating when the sale of an electronic good is consummated. This is because Gupta discloses a Product DB that comprises only product information about real products and does not contain the products themselves as would be the case for electronic products or goods. Applicants' patent application presented subsystem processing of a transaction rating on a downloadable electronic good sale because the electronic good may be downloaded immediately after electronic payment and the sale is completed. This is unlike sales transactions with real goods where the buyer must wait for the good to physically arrive in post office mail and rate not only timeliness of arrival but the condition of the good relative to what the seller advertised. With electronically downloadable goods, these issues are not present. Thus, delivery of the electronic good via download implies that the seller fulfilled all obligations as best as possible. Applicants also respectfully submit that Applicants' Claim 42 (former Claim 15), is also distinct due its dependency on Claim 41 (former Claim 14), in turn dependent on Claim 28 (former Claim 1),

which is believed to be distinct from the Gupta patent as per the claim 28 discussion above.

Gupta does disclose auditing every bid and sale, as in Col. 11, lines 8-24. While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention Claim 43 (former Claim 16) is actually distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Short-Bidding Sale Reviewer and Bid Reviewer

Gupta does not disclose reviewing all bids using different display filters and sorting criteria. See references to history and audits, as in Col. 10, lines 1-24. The reference does disclose only a sorted list of the offers in Col. 9 line 64. However, Applicants respectfully submit that there does not seem to be a mention of the use of a filter in the reference. Applicants would like to point out that the sorting criteria in Applicants' patent application Claim 45 (former Claim 18) is intended to be a capability with multiple sorting options and/or even total custom filtering and sorting where sorting by bid price is only one sort option. Gupta discloses the sorted list as though it is a built in capability with no ability to sort by anything else. Gupta does not disclose filtering bid lists by any attributes. Applicants' patent application presents a filter based on a bid's active status (active or inactive) in paragraph 29 of the detailed description. Paragraph 34 presents a filter based on bidder or seller. Paragraph 27 presents a simple editbox for filtering and sorting expressions based on information fields of bids. Applicants also respectfully submit that Applicants' Claim 45 (former

Claim 18), is also distinct due its dependency on Claim 28 (former Claim 1), which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Gupta discloses a very limited ability for selecting and deselecting bidders and accepting bids to execute a sale (see at least references to winners, as in Col. 3, lines 12-18). Applicants respectfully point out that while Gupta discloses a mechanism for a buyer to select a seller bid, it may be only a single bid (See Gupta's Abstract). Applicants' patent application instead emphasizes throughout the patent application that sellers may sell more than one of the same good at the same time. Thus, the Applicants' Bid Reviewer provides a sophisticated user interface for selecting and deselecting multiple bids as in Applicants' drawing FIG. 4. Applicants also respectfully submit that Applicants' Claim 46 (former Claim 19), is also distinct due its dependency on Claim 28 (former Claim 1), which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Gupta does not disclose providing a display filter and sorter based on bidder history and their [bidder? Filter? Sorter?] transaction ratings by others [bidders?]. See references to history and audits, as in Col. 10, lines 1-24. Applicants respectfully submit that the reference does not appear to present filtering and sorting based on bidder history or transaction ratings as in the Applicants' patent application Claim 47 (former Claim 20). Gupta does disclose a notion of approved product distributors in Col. 10, line 12, but there appears to be no explicit mention that "approved" is equivalent to a filter based on history or transaction ratings. There is no discussion of assembling filters and sorting criteria as presented in the Applicants' patent application. Applicants also respectfully submit that

Applicants' Claim 47 (former Claim 20) is also distinct due its dependency on Claim 28 (former Claim 1), which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Gupta does not disclose selecting and deselecting bidders and update an analysis (see, for example, at least Col. 10, lines 15-19). Applicants respectfully submit that the reference contains no discussion of analysis. Specifically, Applicants patent application presents analysis for the purpose of determining how much total revenue will be made by accepting a specific subset of all bids before actually accepting such bids (See Applicants' drawing FIG. 5). This is very important in the Applicants' patent application and key to Claim 52 (former Claim 25), because the Applicants' patent application emphasizes auctions with many more than one (1000s or even 10,000s would be considered normal) of the same item in the auction. Thus, such an analysis is very important prior to acceptance wherein employing such an analysis does not have any value for the Gupta's patent because only one item gets transacted per auction. Applicants also respectfully submit that Applicants' Claim 52 (former Claim 25) is also distinct due its dependency on Claim 51 (former Claim 24), in turn dependent on Claim 48 (former Claim 21), in turn dependent on Claim 28 (former Claim 1), which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Bid Creator

Gupta does not disclose that buyers offer their bid or bids for a specific time interval, wherein offered bids during their specified time interval are considered active, and are considered inactive otherwise, wherein currently inactive bids that have already been active are considered

expired. See at least references to auction closings, as in Col. 12, lines 3-6. Applicants have defined active bids and inactive bids in their patent application detailed description's paragraph 27. The later half of the paragraph says:

Such embodiments recognize four distinct categories of bids: active bids (short-bids which are eligible for acceptance during their specified time interval), inactive expired bids (short-bids which were active but which are past their end time), inactive future bids (bids which will be active when the time reaches their start time), and successful bids (bids which have been accepted and have executed the corresponding sales transaction).

Applicants respectfully request that the patent office recognize that the reference in the Gupta patent in Col. 12, lines 3-6 does not discuss any of the concepts around the state of bids. Applicants also respectfully submit that Applicants' Claim 48 (former Claim 21) is also distinct due its dependency on Claim 28 (former Claim 1), which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Gupta does refer to using historical information for detailed analysis of buyer and seller behavior in Col. 11, lines 17-18. However, there is no mention that this analysis is employed for sales revenue determination as emphasized in Applicants' Claim 51 (former Claim 24). Additionally, as discussed in the previous paragraph of this response, Gupta does not disclose a concept of inactive bids. Finally, Applicants respectfully submit that Applicants' Claims 51 and 52 (former Claims 24 and 25) are also distinct due their dependency on Claim 28 (new Claim 1), which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

REMARKS— Claim Rejections – 35 USC § 103

Gupta discloses the use of auction history and that Gupta does not specifically disclose a user interface to review the information. The office action then takes an Official Notice that it was old and well known at the time of applicants' invention to review data, including auction history. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Gupta to include a user interface screen to review auction history. While this extension to Gupta patent is obvious, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention Claim 39 (former Claim 12), is actually distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

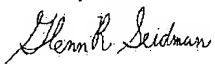
Applicants respectfully request that the Patent Office recognize that Applicants' invention Claim 44 (former Claim 17) is also distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Gupta does not specifically disclose that buyers customize what their specific bid will be at specific times during the auction, for example, raising the bid a little or a lot during the last 5 minutes of the auction. However, the office action notes that this is disclosed by Montgomery (paragraph 111). The office action further notes that combining Gupta and Montgomery would have been obvious at the time that the patent application was filed. Applicants believe that the office action meant paragraph 11 of the Montgomery reference. In the Montgomery

reference, it does appear to disclose bid changes, however, the text seems to indicate that bids are always higher than the previous bid. Applicants respectfully request that the patent office recognize that as per Applicants' patent application detailed description paragraph 27 and drawing in FIG. 3, that any bid price and quantity may be entered for a time interval including one that is lower than current highest bid or even lower than the previous bid submitted. Applicants believe that this is distinct and non-obvious over Montgomery and Gupta. Additionally, Applicants respectfully request that the Patent Office recognize that Applicants' invention Claim 49 (former Claim 22) is actually distinct due to its dependency on the Applicants' invention independent Claim 28 (former Claim 1) which is believed to be distinct from the Gupta patent as per the Claim 28 discussion above.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By ,
Dr. Glenn R Seidman
Tel. (650) 678-7147